

1 \$10,000. Defendants removed to this court on May 21, 2012.

2 Plaintiff now seeks to remand the matter to state court.

3 A defendant may remove to federal court "any civil action
4 brought in a State court of which the district courts of the United
5 States have original jurisdiction" 28 U.S.C. § 1441(a).
6 District courts have original jurisdiction over "all civil actions
7 arising under the Constitution, laws, or treaties of the United
8 States. 28 U.S.C. § 1331. The removal statute is strictly
9 construed against removal jurisdiction, and federal jurisdiction
10 must be rejected if any doubt exists as to the propriety of
11 removal. Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).
12 A removing defendant always bears the burden of establishing that
13 removal is proper. Id.

14 No federal question appears from the face of the complaint.
15 Nevertheless, Defendants assert that this case implicates a federal
16 question because they have a defense under the United States
17 Constitution. (Opp. at 3.) "Under the longstanding well-pleaded
18 complaint rule, however, a suit 'arises under' federal law only
19 when the plaintiff's statement of his own cause of action shows
20 that it is based upon federal law." Vaden v. Discover Bank, 556
21 U.S. 49, 60 (2009) (quotation, citation, and alteration omitted).
22 "Federal law" cannot be predicated on a defense or counterclaim.
23 Id.

24 This court also has original diversity jurisdiction over
25 actions between different states where the amount in controversy
26 exceeds \$75,000. 28 U.S.C. 1332(a). Defendants appear to argue
27 that diversity jurisdiction exists here. (Opp. at 2-3.) As an
28 initial matter, contrary to Defendants' assertion, Plaintiff does

1 not dispute that the parties are completely diverse. The amount in
2 controversy requirement, however, is not met here. First, the face
3 of Plaintiff's complaint alleges on its face an amount in
4 controversy less than \$10,000. Under such circumstances,
5 Defendants must show to a "legal certainty" that the jurisdictional
6 minimum is met. Guglielmino v. McKee Foods Corp., 5056 F.3d 696,
7 699 (9th Cir. 2007). Defendants have not made such a showing.
8 Defendants argue that the amount in controversy exceeds \$75,000
9 because the value of the subject property exceeds that amount.
10 (Opp at 2.) In unlawful detainer cases, however, only the right to
11 possession is at issue, not right to title. See Litton Loan
12 Servicing, L.P. v. Villegas, No. C 10-05478 PJH, 2011 WL 204322 at
13 *2 (N.D. Cal. January 21, 2011). The measure of damages,
14 therefore, is the amount sought in the complaint, not the value of
15 the property. Bank of America v. Chishty, No. CV 12-02252 MMM,
16 2012 WL 1952834 at *2 (C.D. Cal. May 31, 2012). Because the amount
17 in controversy here does not exceed \$75,000, diversity jurisdiction
18 is lacking, and removal is, therefore, improper.

19 For the reasons stated above, Plaintiff's **Motion to Remand**
20 **(DKT. NO. 13) is GRANTED.**²

21 IT IS SO ORDERED.

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24 Dated: July 27, 2012



DEAN D. PREGERSON
United States District Judge

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27
28 ² Defendants' Motion to Dismiss (Dkt. No. 7) is VACATED as
moot.